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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/913,435	02/02/2002	Edward J. Yurkow	RU-0130	9557
26259	7590	10/22/2003		
LICATLA & TYRRELL P.C. 66 E. MAIN STREET MARLTON, NJ 08053			EXAMINER SPIVACK, PHYLLIS G	
			ART UNIT 1614	PAPER NUMBER
			DATE MAILED: 10/22/2003	

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/913,435

Applicant(s)

Yurkow et al.

Examiner

Phyllis G. Spivack

Art Unit

1614

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Aug 8, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-5 is/are pending in the application.
- 4a) Of the above, claim(s) 2-4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1 and 5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

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Applicants' Reply to the Restriction Requirement filed August 8, 2003, Paper No. 7, is acknowledged. Applicants have elected with traverse Group I, drawn to methods of maintaining cells in a selected redox state or stabilizing the redox state of cells with abnormal fluctuations in their redox state, claims 1 and 5.

The traversal is on the grounds that, in Applicants' view, all claims in the instant application relate to the single concept of maintaining cells in a selected redox state by using a redox clamping agent and the inclusion of all Groups would not be overly burdensome.

Applicants' arguments have been carefully considered but are not found persuasive. As the claims define the invention, claims 2-4 do not relate to a single concept of maintaining cells in a selected redox state. Specifically, claim 2 is directed to sensitizing selected cells to a chemotherapeutic agent comprising administering multiple agents; claim 3 is directed to treating cancer comprising administering multiple agents; and, claim 4 is directed to inhibiting hyperproliferation. The language of the claims clearly shows distinction and independence. Further, because the claims do not recite the redox agents contemplated, the search is burdensome based on the many compounds of varied structure and classification in unrelated methods of use. The burdensome nature of the search is further measured by the literature search based on unrelated methods of use. The Restriction Requirement, as set forth, is still deemed proper and is adhered to.

Upon reconsideration, however, the request for an election of species is withdrawn.

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Claims 2-4 are withdrawn from consideration by the Examiner, 37 C FR 1.142(b), as being drawn to non-elected inventions.

An Information Disclosure Statement filed August 14, 2001, Paper No. 5, is further acknowledged and has been reviewed.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1 and 5 are rejected under 35 U.S.C. 102(a) as being anticipated by Neal et al.,

Toxicology.

Neal teaches administration of 2,3-dimercaptosuccinic acid (Succimer) to a rat previously exposed to lead. Lead exposure induces oxidative modification of the lens proteins. The effects on the redox status of the lenses of the rat are disclosed. On page 6 of the subject specification, 2,3-dimercaptosuccinic acid is taught to be a redox clamping agent. According to Neal, Succimer decreases protein-bound glutathione and enhances the reductive status of the lenses.

No claim is allowed.

A list of co-pending and related applications is requested when Applicants respond to this Office Action.

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Any inquiry concerning this communication should be directed to Phyllis Spivack at telephone number 703-308-4703.

October 17, 2003

*Phyllis Spivack*

**PHYLLIS SPIVACK  
PRIMARY EXAMINER**